

**A.R.S. §13-4439³ Right to leave work;
scheduled proceedings; employment
rights; nondiscrimination;
confidentiality; definition**

- A. An employer who has fifty or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of that employer, shall allow an employee who is a victim of a crime to leave work to exercise the employee's right to be present at a proceeding pursuant to sections 13-4414, 13-4420, 13-4421, 13-4422, 13-4423, 13-4426, 13-4427 and 13-4436.
- B. An employer may not dismiss an employee who is a victim of a crime because the employee exercises the right to leave work pursuant to subsection A of this section.
- C. An employer is not required to compensate an employee who is a victim of a crime when the employee leaves work pursuant to subsection A of this section.
- D. If an employee leaves work pursuant to subsection A of this section, the employee may elect to use or an employer may require the employee to use the employee's accrued paid vacation, personal leave or sick leave.
- E. An employee who is a victim of crime shall not lose seniority or precedence while absent from employment pursuant to subsection A of this section.
- F. Before an employee may leave work pursuant to subsection A of this section, the employee shall do all of the following:
 - 1. Provide the employer with a copy of the form provided to the employee by the law enforcement agency pursuant to section 13-4405, subsection A or a copy of the

information the law enforcement agency provides to the employee pursuant to section 13-4405, subsection E.

- 2. If applicable, give the employer a copy of the notice of each scheduled proceeding that is provided to the victim by the agency that is responsible for providing notice to the victim.
- G. It is unlawful for an employer or an employer's agent to refuse to hire or employ, to bar or to discharge from employment or to discriminate against an individual in compensation or other terms, conditions or privileges of employment because the individual leaves work pursuant to subsection A of this section.
- H. Employers shall keep confidential records regarding the employee's leave pursuant to this section.
- I. An employer may limit the leave provided under this section if the employee's leave creates an undue hardship to the employer's business.
- J. The prosecutor shall inform the victim of the victim's rights pursuant to this section. A victim may notify the prosecutor if exercising the victim's right to leave under this section would create an undue hardship for the victim's employer. The prosecutor shall communicate the notice to the court during the scheduling of proceedings where the victim has the right to be present. The court shall continue to take the victim's schedule into consideration when scheduling a proceeding pursuant to subsection A of this section.
- K. For purposes of this section, Aundue hardship means a significant difficulty and expense to a business and includes the consideration of the size of the employer's business and the employer's critical need of the employee.

³ A.R.S. § 8-420 provides comparable rights in the juvenile justice arena.



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Crime Victims' Right to Leave Work Information for Victims and Employers

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*learn more about
victims' rights on
the internet at
www.azag.gov*

VICTIMS' RIGHT TO LEAVE WORK TO ATTEND SCHEDULED COURT PROCEEDINGS AND RELEASE HEARINGS

Since 2001, crime victims' in Arizona have had the right to take unpaid leave when attending scheduled justice proceedings (court hearings and hearings before the Board of Executive Clemency) relevant to the crime committed against them or their families. With this right, crime victims in Arizona are no longer placed in a position in which they must choose between their job and their participation in the judicial process, which, under our State constitution, they have the right to do. The law guaranteeing this right, A.R.S. § 13-4439, is reprinted on the reverse side of this pamphlet.

INFORMATION FOR CRIME VICTIMS

As a crime victim, you have the right to attend justice proceedings scheduled in your case. Doing so, for many victims, promotes a sense of justice and healing. For some victims, however, exercising this right may be difficult. This is one area where victims' rights laws may be able to help you.

By law, if your employer is in Arizona and has 50 or more employees, you have the right to leave work to attend justice proceedings in your case, and your employer may not dismiss you or discriminate against you because you took leave. You are not entitled to compensation unless you use accrued

¹ A victim means a person against whom a criminal offense has been committed or if the person is killed or incapacitated, the person's immediate family or other lawful representative, except if the person is in custody for an offense or is the accused. Immediate family means a victim's spouse, parent, child, sibling, grandparent or lawful guardian

leave time — which your employer can require you to do. An employer may limit your leave, if your absence would create an “undue hardship.”

By law, the court must take your schedule into consideration when setting future court dates. Therefore, if leaving work to exercise your right to attend a scheduled proceeding would cause your employer undue hardship, please contact the prosecutor in your case.

INFORMATION FOR EMPLOYERS

Arizona law (A.R.S. § 13-4439) outlines the rights and responsibilities of employers² related to their employees who are victims of crime.

Important highlights of the law:

- You may not dismiss an employee for exercising the right to attend justice proceedings;
- You may not revoke seniority or precedence, or discriminate in any way against an employee for exercising the right to attend justice proceedings;
- You are not required to compensate an employee for time off to attend justice proceedings unless s/he uses accrued vacation, sick and/or personal time, if applicable.

² Applies to employers who have 50 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year.

FREQUENTLY ASKED QUESTIONS

- Q. How can an employer know for sure that the employee is, in fact, a crime victim and the leave requested is, in fact, to attend a justice proceeding in his or her case?
- A. Crime victims in Arizona receive written notice that you can ask to see. The law requires that victims provide their employers with a copy of the form and/or information they receive from law enforcement, as well as provide a copy of the notice of each scheduled proceeding they wish to attend.
- Q. Is there a limit to how much leave a victim is entitled to under this law?
- A. The law places no limit on how much time a victim may take off work to exercise his or her right to attend justice proceedings. However, the vast majority of cases are resolved through plea agreements, which precludes lengthy trials.
- Q. Who can I contact for more information and/or assistance?
- A. Employers: the person to whom you turn for information and assistance with other statutory obligations is likely to be your best resource. Victims: the prosecutor or victim advocate involved in your case may be helpful, as well as the Human Resources Department at your place of employment.